

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Glenn Massina on 5/17/2010.

The application has been amended as follows:

In claim 20, line 5, replace "extending from" with --on--. In line 4, replace "an implant gripping surface" with --a v-shaped implant gripping surface--. In line 5, insert --v-shaped-- between "said" and "implant." In line 6, insert --v-shaped-- between "said" and "implant."

In claim 21, line 7, replace "extending from" with --on--. In line 6, "an implant gripping surface" should be changed to --a v-shaped implant gripping surface--. In line 7, insert --v-shaped-- between "said" and "implant." In line 8, insert --v-shaped-- between "said" and "implant." In line 12, "said v-shaped gripping surface" should be changed to --said v-shaped implant gripping surface--.

Claims 6-19 depend from allowable claim 1 and are rejoined.

REASONS FOR ALLOWANCE

The following is an examiner's statement of reasons for allowance:

The claims in the instant application have not been rejected using prior art because no references, or reasonable combination thereof, could be found which

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disclose, or suggest an implant insertion device comprising: an insertion rod...an implant gripper...including: a v-shaped gripping...a first pin extending from and fixed relative to said v-shaped gripping surface... a second pin extending through and movable relative to said v-shaped gripping...wherein said first pin and said second pin are offset on said v-shaped gripping surface and extend in a non-parallel manner.

The claims in the instant application have not been rejected using prior art because no references, or reasonable combination thereof, could be found which disclose, or suggest an implant insertion device comprising: an insertion rod...an implant gripper...including: an implant gripping surface...a first pin on and fixed relative to said implant gripping surface; and a second pin extending through and movable relative to said implant gripping surface...aligned with said longitudinal axis of said insertion rod and non-parallel to said first pin.

The claims in the instant application have not been rejected using prior art because no references, or reasonable combination thereof, could be found which disclose, or suggest a handle having a gripping surface; an insertion rod extending from said handle...an implant gripper extending from said insertion rod...including: a v-shaped implant gripping surface...a first pin on and fixed relative to said implant gripping surface; and a second pin extending through and movable relative to said implant gripping surface...substantially aligned with said longitudinal axis of said insertion rod and non-parallel to said first pin; and an actuator positioned proximal to said handle for moving the second pin relative to said v-shaped implant gripping surface.

Regarding U.S. patents 4,691,903 and 7,278,997, cited on the attached Form PTO-892, It is noted that these references do not read on the claims as currently written because there is no "v-shaped" gripping surface, and further because the first pin is not "on and fixed relative to" the implant gripping surface.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARY HOFFMAN whose telephone number is (571)272-5566. The examiner can normally be reached on Monday-Thursday 10:00-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eduardo C. Robert can be reached on 571-272-4719. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Mary C. Hoffman/
Examiner, Art Unit 3733
/Eduardo C. Robert/
Supervisory Patent Examiner, Art Unit 3733